

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA, )  
                                )  
Plaintiff,                 ) Case No.  
                                )  
v.                            )  
MICHAEL RIVERS D/B/A MIKE'S )  
AUTOMOTIVE,                )  
                                )  
Defendant.                 )

**COMPLAINT**

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment unpaid federal tax liabilities owed by Michael Rivers. For its complaint, the United States alleges as follows:

**JURISDICTION**

1. The district court has jurisdiction pursuant to 26 U.S.C. § 7402(a) and 28 U.S.C. §§ 1331, 1340, and 1345.

**PARTIES**

2. The defendant Michael Rivers, doing business as Mike's Automotive, resides in Belknap County, New Hampshire, within the jurisdiction of this Court.

**COUNT ONE**

**(Claim Against Michael Rivers D/B/A Mike River's Automotive to Reduce Income Tax Liabilities to Judgment)**

3. A delegate of the Secretary of the Treasury made assessments against Michael Rivers for federal employment taxes (Form 941) for the periods and on the dates described

below. These liabilities have the following balances due as of August 17, 2020, including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651 or penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, and after applying any abatements, payments, and credits:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Balance Due 08/17/2020</b>
<b>06/2001</b>	8/18/2008	\$21,729.27
<b>09/2001</b>	8/18/2008	\$17,156.49
<b>12/2001</b>	8/18/2008	\$25,343.88
<b>06/2002</b>	8/18/2008	\$19,089.86
<b>09/2002</b>	8/18/2008	\$21,285.96
<b>12/2002</b>	8/25/2008	\$25,098.92
<b>03/2003</b>	8/18/2008	\$19,975.30
<b>06/2003</b>	8/18/2008	\$26,935.98
<b>09/2003</b>	8/18/2008	\$23,826.58
<b>12/2003</b>	10/27/2008	\$24,318.32
<b>03/2004</b>	8/18/2008	\$20,491.43
<b>06/2004</b>	8/18/2008	\$21,970.87
<b>09/2004</b>	8/18/2008	\$14,089.59
<b>12/2004</b>	8/18/2008	\$18,505.75
<b>03/2006</b>	08/04/2008	\$22,662.92
<b>06/2006</b>	08/04/2008	\$23,410.25

<b>09/2006</b>	08/04/2008	\$28,052.89
<b>12/2006</b>	08/04/2008	\$27,834.18
<b>03/2007</b>	08/11/2008	\$25,729.25
<b>06/2007</b>	08/11/2008	\$25,808.46
<b>09/2007</b>	08/11/2008	\$20,024.40
<b>12/2007</b>	08/11/2008	\$26,560.08
<b>03/2008</b>	03/02/2009	\$14,343.26
<b>06/2008</b>	03/02/2009	\$3,310.95
<b>09/2008</b>	02/16/2009	\$218.65
<b>Total</b>		\$517,772.49

4. Notice of the liabilities described in paragraph 3 was given to, and payment demanded from, Michael Rivers.

5. Despite proper notice and demand, Michael Rivers failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, he remains liable to the United States in the amount of \$517,773.49, plus statutory additions and interest accruing from and after August 17, 2020.

6. The United States generally has ten years after assessment to collect a tax by levy or by a proceeding in court. 26 U.S.C. 6502(a). However, the period for collection is suspended for the period during which the Internal Revenue Service is prohibited from collecting by levy or a proceeding in court due to the filing of a bankruptcy case, and for six months thereafter. 26 U.S.C. § 6503(h)(2).

7. Michael Rivers filed a bankruptcy petition on August 28, 2010 which was dismissed on January 21, 2011, a total of 146 days.

8. The ten-year period for collection was tolled for 146 days and 6 months by the bankruptcy filed by the Defendant. 26 U.S.C. § 6503(h), 11 U.S.C. § 362(a)(6), (c)(2).

9. The Internal Revenue Service is prohibited from levying during the period in which an offer-in-compromise filed under 26 U.S.C. § 7122 is pending. 26 U.S.C. § 6331(k)(1)(A).

10. Michael Rivers filed an offer-in-compromise pursuant to 26 U.S.C. § 7122 on February 12, 2009 which was accepted on April 15, 2010. The offer-in-compromise was pending for 427 days.

11. The ten-year period for collection was tolled for 427 days during the time the Internal Revenue Service was prohibited from levying while the Defendant's offer-in-compromise was pending.

12. With the applicable tolling events, the period for collection is tolled to August 28, 2020.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Michael Rivers, for federal employment tax liabilities for the periods ending June 31, 2001, September 31, 2001, December 31, 2001, June 31, 2002, September 31, 2002, December 31, 2002, March 31, 2003, June 31, 2003, September 31, 2003, December 31, 2003, March 31, 2004, June 31, 2004, September 31, 2004, December 31, 2004, March 31, 2006, June 31, 2006, September 31, 2006, December 31, 2006, March 31, 2007, June 31, 2007, September 31, 2007, December 31, 2007, March 31, 2008, June 31, 2008, September 31, 2008, in the amount of \$517,772.49 plus statutory additions and interest accruing

from and after August 17, 2020, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c);

B. The United States of America shall recover its costs and be awarded such other and further relief as the Court determines is just and proper.

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By:

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